

SB0698



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0698

Introduced 2/8/2007, by Sen. John M. Sullivan

SYNOPSIS AS INTRODUCED:

35 ILCS 200/Art. 11 Div. 5 heading new
35 ILCS 200/11-180 new
35 ILCS 200/11-185 new
35 ILCS 200/11-190 new
35 ILCS 200/11-195 new
35 ILCS 200/11-200 new
35 ILCS 200/11-203 new
35 ILCS 200/11-205 new
35 ILCS 200/11-210 new
35 ILCS 200/11-215 new

Amends the Property Tax Code. Sets forth procedures for the valuation of property used for wind energy conversion systems based on kilowatt-hours of electricity produced. Effective immediately.

LRB095 10960 BDD 31259 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Property Tax Code is amended by adding
5 Division 5 to Article 11 as follows:

6 (35 ILCS 200/Art. 11 Div. 5 heading new)

7 DIVISION 5. WIND ENERGY PRODUCTION

8 (35 ILCS 200/11-180 new)

9 Sec. 11-180. Legislative findings. The General Assembly
10 finds and declares that:

11 (1) it is desirable to develop both renewable and
12 alternative energy resources to obtain environmental
13 quality and public health benefit;

14 (2) the benefits of electricity from renewable and
15 alternative energy resources accrue to the public at large,
16 thus consumers and electric utilities and alternative
17 retail electric suppliers share an interest in developing
18 and using a significant level of these environmentally
19 preferable resources in the State's electricity supply
20 portfolio;

21 (3) encouraging energy efficiency will improve the
22 environmental quality and public health in the State of

1 Illinois;

2 (4) wind energy is one alternative energy source that
3 can be used to provide electricity to utility consumers;

4 (5) some regions in the State are ideal locations for
5 wind energy system development;

6 (6) a consistent property valuation method must be used
7 statewide to ensure uniform, equitable assessments and to
8 create an equal distribution of the tax burden among
9 taxpayers, especially in taxing districts located in more
10 than one county; and

11 (7) the cost or market valuation methods for wind
12 energy systems result in valuations that are neither
13 uniform nor just and equal because of wide variations in
14 the production of energy from wind turbines, which are a
15 result of the uncertainty of the availability of wind for
16 energy production.

17 (35 ILCS 200/11-185 new)

18 Sec. 11-185. Definitions. For purposes of this Division 5:

19 "Wind energy conversion device" means any device
20 including, but not limited to, a wind charger, windmill, or
21 wind turbine that converts wind energy to a form of usable
22 energy.

23 "Wind energy conversion system" is all wind energy
24 conversion devices owned by a person who has executed a lease,
25 contract, or other written agreement or who has purchased or

1 acquired property so that one or more wind energy conversion
2 devices can be erected, built, or otherwise installed on that
3 property. These devices do not need to be on contiguous parcels
4 of property to be considered a part of a total wind energy
5 conversion system.

6 (35 ILCS 200/11-190 new)

7 Sec. 11-190. Applicability. The provisions of this
8 Division 5 do not apply to wind energy conversion systems that
9 are owned by an individual strictly for personal use or to any
10 person that is otherwise exempt from taxation under the
11 Property Tax Code. For the purposes of this Section, "personal
12 use" means the use of any wind energy conversion system with a
13 nameplate capacity of less than 2 megawatts.

14 (35 ILCS 200/11-195 new)

15 Sec. 11-195. Platting requirements. Upon the completion of
16 construction, the owner of a wind energy conversion system, at
17 his or her own expense, shall cause the wind turbine facilities
18 to be platted by an Illinois registered land surveyor. The plat
19 must include access routes, together with a metes and bounds
20 description of the area surrounding each wind turbine. The
21 system owner must record the plat and deliver a copy of it to
22 the property owner and to the chief county assessment officer
23 within 60 days after the completion of the construction. Upon
24 receiving a copy of the plat, the chief county assessment

1 officer must issue a separate parcel identification number or
2 numbers for the wind energy conversion system to apportion the
3 value to each taxing district in which the system is physically
4 located.

5 (35 ILCS 200/11-200 new)

6 Sec. 11-200. Wind energy conversion system size and
7 capacity. The Department must determine the total size of the
8 device. Unless the systems are interconnected with different
9 distribution systems, the nameplate capacity of one wind energy
10 conversion device must be combined with the nameplate capacity
11 of any other wind energy conversion device that is under common
12 ownership. In the case of a dispute, the Department must draw
13 all reasonable inferences in favor of combining the devices
14 into one system. In making a determination, the Department may
15 decide that 2 wind energy conversion devices or systems are
16 under common ownership when the underlying ownership structure
17 contains similar persons or entities, even if the ownership
18 shares differ. Wind energy conversion devices or systems are
19 not under common ownership solely because the same person or
20 entity provided equity financing for the systems.

21 (35 ILCS 200/11-203 new)

22 Sec. 11-203. Certification of electricity generated. For
23 each wind energy conversion system the Department, on or before
24 May 1 of each year, must certify to each chief county

1 assessment officer for any county in which the system is
2 located the amount of kilowatt-hours of electricity generated
3 per turbine in the prior calendar year and the value of the
4 system per kilowatt-hour, as calculated under Section 11-210.

5 (35 ILCS 200/11-205 new)

6 Sec. 11-205. Method of valuation for wind energy conversion
7 systems.

8 (a) It is the policy of this State that, beginning on and
9 after January 1, 2007, a wind energy conversion system that is
10 used as an electric power source must be valued on the per
11 kilowatt-hour of electricity produced each calendar year. If,
12 however, a wind energy conversion system ceases to operate for
13 any reason, the minimum assessed value of the system is 10% of
14 the cost of replacing the system with a new wind energy
15 conversion system.

16 (b) On or before February 1 of each year, the owner of a
17 wind energy conversion system shall file a report with the
18 Department setting forth, for each system:

19 (1) the nameplate capacity;

20 (2) the total kilowatt-hours of electricity produced
21 per turbine during the previous calendar year;

22 (3) the amount of any federal income tax credit awarded
23 for electricity produced in the previous calendar year
24 under Section 45 of the Internal Revenue Code of 1986 for
25 electricity produced by the system; and

1 (4) any other information that is deemed necessary by
2 the Department to enable it to comply with its
3 responsibilities under this Section.

4 The report under this subsection (b) must also include a
5 copy of any wind energy system's current power purchase
6 agreement with the purchaser of power that is generated at the
7 system. The Department must treat each such agreement as
8 confidential and proprietary information.

9 The Department must prescribe the form of the report. If an
10 owner of a wind energy conversion system subject to taxation
11 under this Division 5 does not file the report by the due date,
12 then the Department must determine the kilowatt-hours of
13 electricity produced based on the full nameplate capacity
14 certified by the Department.

15 (35 ILCS 200/11-210 new)

16 Sec. 11-210. Valuation.

17 (a) The Department shall value a wind energy conversion
18 system by using an income-capitalization approach. To
19 determine the fair-cash value of the system, the net operating
20 income is divided by the wind-energy capitalization rate.

21 (b) For the purposes of this Section:

22 "Net operating income" means an amount equal to

23 (1) the prevailing power purchase agreement rate per
24 kilowatt-hour multiplied by the number of kilowatt-hours
25 of electricity generated by the system in the previous

1 calendar year; plus

2 (2) the amount of any federal income tax credit awarded
3 for electricity produced in the previous calendar year
4 under Section 45 of the Internal Revenue Code of 1986 for
5 electricity produced by the system; less

6 (3) the prevailing annual wind-energy expense per
7 kilowatt-hour multiplied by the number of kilowatt-hours
8 of electricity generated by the system in the previous
9 calendar year.

10 "Prevailing power purchase agreement rate per
11 kilowatt-hour" means the average power purchase agreement rate
12 for all of the wind energy conversion systems in the State
13 during the previous calendar year divided by the number of
14 kilowatt-hours of electricity generated by all of the wind
15 energy conversion systems in the State in the previous calendar
16 year.

17 "Prevailing wind-energy expense per kilowatt-hour" means
18 the average amount of expenses incurred from the operation of
19 all of the wind energy conversion systems in the State during
20 the previous calendar year divided by the number of
21 kilowatt-hours of electricity generated by all of the wind
22 energy conversion systems in the State in the previous calendar
23 year.

24 "Wind-energy capitalization rate" means a rate equal to the
25 sum of: (i) the capitalization rate for nondepreciating assets
26 that is used by the Department in farmland evaluation; (ii) the

1 recapture rate, which is one divided by the typical life
2 expectancy of the system; and (iii) the average effective tax
3 rate in the State.

4 (c) The annual kilowatt-hours of electricity for the first
5 assessment year is determined by multiplying: (i) the nameplate
6 capacity per kilowatt-hour; (ii) the industry standard rate of
7 efficiency; and (iii) 8,760, which is the number of hours in
8 365 days.

9 (35 ILCS 200/11-215 new)

10 Sec. 11-215. Assessments of wind energy conversion
11 systems.

12 (a) A wind energy conversion system must be assessed at 33
13 1/3% of the fair cash value determined under Section 11-210.
14 The chief county assessment officer shall apportion the value
15 to each wind energy conversion parcel in which the wind energy
16 system is physically located.

17 (b) A wind energy conversion system is not subject to
18 equalization by the Department, the county, or the board of
19 review.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.